

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

CLEANUP AND ABATEMENT ORDER NO. 89-51

GOLDEN WEST HOTEL
AND
UNOCAL CORPORATION

235 MARKET STREET, SAN DIEGO
PARCEL NO. 535-073-11-00
BLOCK 93, LOTS A,B,K & L
SAN DIEGO COUNTY

California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds that:

1. Golden West Hotel currently owns the subject property at 235 Market Street. Presently, Golden West Hotel leases the property for use as a parking lot. The site is within the San Diego Mesa Hydrographic Subunit (8.2) of the Coronado Hydrographic Unit (8.0).
2. From 1946 to 1975, the property was owned by Edward J. and Alice May Hornung and Francis C. McCormick. From 1976 to 1978, the property was owned by Maria F. Sanchez a.k.a. Maria F. Jonas and Donald R. Jonas. Golden West Hotel has owned the property since 1978.
3. Unocal Corporation (formerly Union Oil Company) occupied the site continuously from 1946 to 1975 for operation of a service station, primarily for truck refueling, under leases from previous property owners. During the term of the leases, Unocal installed and maintained numerous underground storage tanks at the subject site.
4. The site is a part of the Marina Redevelopment Project in the center city area of the City of San Diego. The project is being administered by the Redevelopment Agency of the City of San Diego. The Centre City Development Corporation, Inc. (CCDC) is a nonprofit corporation established by the City of San Diego to administer downtown redevelopment projects, including the Marina Redevelopment Project.
5. In 1987, CCDC discovered a subsurface hydrocarbon plume near the intersection of Market Street and First Avenue. The subsurface plume is composed of petroleum hydrocarbon with a carbon chain which ranges from gasoline to diesel and appears to be an accumulation of several coalescing sources. A 0.1 and 1.1 foot thickness of petroleum hydrocarbon was measured in two ground-water monitoring wells adjacent to the northern boundary of the subject property.
6. On September 9, 1987, The Regional Board sent a letter to Mr. Shearn Platt, attorney for Golden West Hotel, requesting information regarding past practices associated with the subject site.
7. By letter dated September 24, 1987 and December 8, 1987, Golden West Hotel informed Regional Board staff that underground tanks were on the premises in the past. In 1979, Golden West Hotel contracted with Fritz A. Nachant, Inc. to remove all existing

underground storage tanks on site. The contractor apparently removed eight tanks. One tank was recently discovered on site, however, tests indicate that more tanks may be on site.

8. By letter dated December 22, 1988 jointly to Golden West Hotel and Unocal, Regional Board staff requested both parties to conduct a subsurface investigation.
9. In response to our letter of December 22, 1988, the Regional Board received a technical subsurface investigation report dated April 6, 1989 prepared by Applied Consultants for Golden West Hotel.
10. According to the report, borings drilled through three former tank backfill areas encountered hydrocarbon soil contamination (characterized as degraded leaded gasoline, diesel and some kerosene grade fuels) from the surface to 15 feet below the surface. At the surface, in monitoring well no. 1 (MW-1), 740 milligrams per kilogram (mg/kg) of diesel grade petroleum hydrocarbon was present in the tank backfill area. The report also gave the following concentrations in the soil:

<u>Constituent</u>	<u>Concentration</u>
Benzene	0.97 mg/kg
Toluene	40 mg/kg
Total Xylene	12 mg/kg
Ethylbenzene	20 mg/kg

These constituents are considered toxic and hazardous by the United States Environmental Agency (EPA) and California State Department of Health Services (DOHS).

11. Presently, the ground-water gradient is to the south. Floating "free" product (0.4 feet) was found on the ground water in MW-2. Product found in MW-2 appears to be similar in carbon chain range to product found in soils under the former tank site. Since significant soil contamination exists within the former backfill area of the tanks and MW-2 shows the presence of free product similar to the grade of petroleum hydrocarbon stored and dispensed on site, the Applied Consultants report dated April 6, 1989 concluded that, "The data from the three exploratory borings demonstrates that petroleum hydrocarbons are present in the soils of the unsaturated zone. The concentration of these hydrocarbons suggests that they must have originated from a surface or near-surface source located beneath the Site. The source of this petroleum hydrocarbon contamination detected in the unsaturated subsurface soils, is believed to be associated with the underground storage tanks and associated fuel distribution lines which were once operated on and located under the Site." (p. 11 of the report).
12. The *Comprehensive Water Quality Control Plan Report, San Diego Basin (9)* (Basin Plan) was adopted by this Regional Board on March 17, 1975; approved by the State Water Resources Control Board on March 20, 1975; and updated by the Regional Board on February 27, 1978; March 23, 1981; January 24 and October 3, 1983; August 27, 1984; and December 16, 1985. The updates were subsequently approved by the State Board.
13. The Basin Plan established no beneficial uses for surface or ground waters in the San Diego Mesa Hydrographic Subunit.

14. The Basin Plan established the following beneficial uses for San Diego Bay:

- a. Industrial Service Supply
- b. Navigation
- c. Water Contact Recreation
- d. Non-Contact Water Recreation
- e. Ocean Commercial And Sport Fishing
- f. Saline Water Habitat
- g. Preservation of Rare and Endangered Species
- h. Marine Habitat
- i. Fish Migration
- j. Shellfish Harvesting

15. The quality of the ground water of the San Diego Mesa Hydrographic Subunit and of the San Diego Bay water is subject to the provisions of the State Water Resources Control Board's Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California*. This policy is incorporated in the Basin Plan. Under the terms and conditions for Resolution No. 68-16, the existing (predischage) quality of ground water in the San Diego Mesa Hydrographic Subunit and the surface water of San Diego Bay must be maintained unless it is demonstrated that a decrease in water quality (1) will be consistent with maximum benefit to the people of the state, (2) will not unreasonably affect beneficial uses, and (3) will not result in water quality less than that prescribed in the Basin Plan or other adopted policies.

16. The Basin Plan contains the following prohibition:

"Dumping or deposition of oil, garbage, trash or other solid municipal, industrial or agricultural waste into natural or excavated sites below historic water levels or deposition of soluble industrial wastes at any site is prohibited, unless such site has been specifically approved by the Regional Board for that purpose."

The subject site has not been specifically approved by the Regional Board for the above purpose.

17. Section 13304(a) of the California Water Code states the following:

"Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, cause or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up such waste or abate the effects thereof or, in the case of threatened pollution or nuisance, take other necessary remedial action."

18. Golden West Hotel has permitted petroleum hydrocarbons to be discharged or deposited on the site where such wastes have been and probably will be discharged into the ground water. The on-going discharge of petroleum hydrocarbons to the ground water has resulted in pollution of the ground water and threatens to pollute waters of San Diego Bay for beneficial uses listed in Finding No. 14. Additionally, the on-going discharge

violates Resolution 68-16 because the Regional Board finds that the decrease in ground-water quality is not consistent with the maximum benefit to the people of the state.

19. These discharges have polluted and threaten to further pollute ground water of the basin and threaten to pollute surface water of San Diego Bay.
20. Regional Board files indicate that the ground water has a total dissolved solids (TDS) concentration that ranges from 1,085 to 3,080 parts per million (ppm) and, under the federal definition, qualifies as a potential underground source of drinking water. The United States Environmental Protection Agency's (EPA) definition of an "underground source of drinking water" is found in Title 40, Code of Federal Regulations (40 CFR), Section 146.3, and states the following:

"Underground source of drinking water (USDW) means an aquifer or its portion:

- (1) (i) Which supplies any public water system; or
(ii) Which contains a sufficient quantity of ground water to supply a public water system; and
 - (a) Currently supplies drinking water for human consumption;
or
 - (b) Contains fewer than 10,000 mg/l total dissolved solids;
and
- (2) Which is not an exempted aquifer."

As defined under 40 CFR Section 141.2(e) a "public water system" means:

"a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year."

Presently, the ground water is not being used as a drinking water source. However, some time in the future this water source may be utilized. The discharge of petroleum hydrocarbons degrades the existing water quality and renders it unusable for drinking water unless the ground water is treated.

21. The ground water beneath the site is in continuity with waters of the bay. The petroleum hydrocarbon concentrations are hazardous to marine life and may impact other beneficial uses of San Diego Bay, as described in Finding No. 14, if allowed to migrate to the bay.
22. Unocal has demonstrated negligence in the discharge of petroleum hydrocarbons to the environment as follows:
 - a. Single-walled steel tank construction which is subject to corrosion,
 - b. No cathodic protective coating of the tanks,
 - c. No early warning site monitoring to detect any discharges,
 - d. No tank over-spill protection, and
 - e. The lack of thorough and adequate tank tests, given the age (29 years old) of the steel tanks.

23. Unocal installed the underground fuel tanks at the site during Unocal's leasehold. Once the lease was terminated, the site was no longer operated as a gasoline station. The tanks were apparently empty at the time of removal. The existence of soil and ground-water contamination at the site indicates that the tanks and/or associated piping leaked during Unocal's leasehold. Petroleum hydrocarbons have been and are being discharged to the ground water. These discharges constitute a continuing public nuisance in violation of Civil Code Section 3490. The discharges also violated Health and Safety Code Section 5411 and California Water Code Section 13304(a).
24. Civil Code Section 3490 prohibits the creation or continuation of a public nuisance. The courts have held that water pollution constitutes a public nuisance. In addition, Health and Safety Code Section 5411 prohibits the discharge of waste which results in pollution, contamination, or nuisance. The past and on-going subsurface discharge of petroleum hydrocarbons has resulted in pollution for the reasons explained above.
25. For reasons explained above, the Regional Board finds Golden West Hotel and Unocal Corporation have discharged and are discharging petroleum hydrocarbons at the site in violation of Section 13304(a) of the California Water Code.
26. Regional Board considers this property one of several properties which have contributed to the ground-water plume for which Cleanup and Abatement Orders will be issued to collectively mitigate the contamination.
27. This enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et. seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, that pursuant to Section 13304 of the California Water Code, Golden West Hotel and Unocal Corporation (hereinafter the dischargers) shall comply with the following directives:

1. The dischargers shall conduct a subsurface investigation and submit the results in a report to this office, no later than August 31, 1989, which characterizes the vertical and horizontal extent of petroleum hydrocarbon contamination in the soil and ground water (both free product and dissolved) resulting from the unauthorized discharge from the former service station at the subject site. The report shall contain the following information:
 - a. A site map showing the location of all borings and monitoring wells.
 - b. Unocal shall provide a true and accurate map which depicts all past tank locations and all associated piping and any underground utilities that might act as conduits along which petroleum hydrocarbons could migrate.
 - c. The water levels and fuel product thicknesses in all existing wells on or immediately adjacent to the property (to the nearest 0.01 foot).
 - d. A site map showing the contours and/or boundary of the soil contamination.

- e. A site map showing the hydrologic contours and the boundary of the free product plume and the dissolved product ground-water contamination.
 - f. All soil samples should be analyzed for the following:
 - (1). Benzene, Toluene, Ethylbenzene, and total Xylenes (using EPA method 8020),
 - (2). Total Petroleum Hydrocarbons [using EPA method 418.1 and California Department of Health Services (CDOHS) method],
 - (3). Organic Lead (using CDOHS method),
 - (4). Polynuclear Aromatic Hydrocarbons (using EPA method 8100).
 - g. All ground-water samples should be analyzed for the following:
 - (1). Benzene, Toluene, Ethylbenzene, and total Xylenes (using EPA method 8020)
 - (2). Total Petroleum Hydrocarbons (using CDOHS method)
 - (3). Total Lead (using EPA method 7421)
 - (4). Polynuclear Aromatic Hydrocarbons (using EPA method 8100).
- 2. The dischargers shall submit a remedial action strategy proposal, no later than October 16, 1989, which addresses the removal and/or treatment of the soil contamination.
 - 3. The dischargers shall submit a remedial action strategy proposal, no later than November 30, 1989, which addresses the removal of any free product and the removal and/or treatment of the ground-water contamination.
 - 4. The dischargers shall take:
 - a. Effective remedial action to immobilize and remove any free product plume.
 - b. Effective remedial action to immobilize and clean up petroleum hydrocarbon dissolved in the ground water to the following levels:

<u>Constituent</u>	<u>Cleanup Level</u>
Benzene	40 ppb
Toluene	5,000 ppb
Ethylbenzene	430 ppb
Total Xylenes	1,750 ppb
 - c. Effective remedial action to remove and/or treat all soil contamination to a level which would prevent leaching of petroleum hydrocarbons to the ground water which would cause contamination in the ground water to exceed the cleanup levels stated in Directive 4(b) above.
 - 5. The dischargers shall submit monitoring reports to this office on a quarterly basis until, in the opinion of the Regional Board Executive Officer, the site has been cleaned up. The monitoring reports shall describe the progress made in the cleanup operations and shall demonstrate that the petroleum hydrocarbon discharged from the former service station has been and remains immobilized. The quarterly monitoring reports shall include, but not be limited to, the following information: